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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GREENHUT, CHARLES N

ART UNIT PAPER NUMBER

3652

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,909

Applicant(s)

ABLABUTYAN ET AL.

Examiner

Charles N. Greenhut

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**I. Claim Objections**

1. Claim 14 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 14 recites further limitations on “the lift of claim 12.” Claim 12, however, is directed to a method for assisting in stowing and unstowing a platform of a lift.

**II. Claim Rejections - 35 USC § 112**

1. With respect to claim 14, the term “a second portion of the parallelogram linkage” is indefinite because it implies antecedent basis for a first portion of the parallelogram linkage which is not recited.

**III. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-5, 13, and 15-20 are rejected under USC § 102(b) as being anticipated by DAVY (US 4,405,279 A)

- 1.1. With respect to claim 1, DAVY discloses a parallelogram linkage (22)/(24), platform (14), active opener arm (100)/(103) configured to engage the platform for movement toward or away from the linkage (Figs. 3-5).

- 1.2. With respect to claims 2-3, DAVY additionally discloses the active opener arm capable of receiving and lifting the platform off the linkage (Fig. 5).
- 1.3. With respect to claims 4, DAVY additionally discloses the arm actuated by lowering or raising the linkage (Figs. 3-5).
- 1.4. With respect to claim 5, DAVY additionally discloses the arm actuated by an actuator (e.g., 14, or with 20).
- 1.5. With respect to claim 13, DAVY additionally discloses the active opener arm rotably coupled to a first portion of the linkage (via 107a).
- 1.6. With respect to claim 15, DAVY additionally inherently discloses the active opener arm configured to move at a variable rate (e.g., via 94).
- 1.7. With respect to claim 16-18, DAVY additionally discloses a segmented platform (14)/(16), roller (107), and stop (97).
- 1.8. With respect to claim 19, DAVY additionally discloses the active opener arm is adjustable in length (e.g., by rotating linkage 101/103).
- 1.9. With respect to claim 20, DAVY additionally discloses a channel (105).
2. Claims 7-12 and 14 are rejected under USC § 102(b) as being anticipated by MCCARTY (US 3,138,270 A).
  - 2.1. With respect to claim 7, MCCARTY discloses a main frame (12) having a lower (15) and upper (19) coupling, a shackle (at 16) having a lower (17) and upper (20) coupling, a lower arm (14) rotably coupled to the lower frame coupling and lower shackle coupling, an upper arm (21) rotably coupled to the upper frame coupling and the upper shackle coupling, the upper arm coupling being lower than a horizontal

plane defined by the lower arm coupling, the upper and lower frame couplings and the upper and lower shackle couplings substantially forming corners of a parallelogram (19)/(15)/(17)/(20), upper and lower arms having parallel axis of rotation, active opener arm (29) slidably coupled to the upper arm coupling (via (12)/(26)), rotating the arms causing the active arm to rotate about the lower arm coupling.

2.2. 1.1. With respect to claim 8, MCCARTY additionally discloses a platform (16) coupled to the shackle.

2.3. 1.2. With respect to claim 9, MCCARTY additionally discloses lowering the arms causing the opener to push the platform away from the arms (Figs. 5-3).

2.4. 1.3. With respect to claim 10, MCCARTY additionally discloses raising the arms causing the opener to lower the platform toward the arms (Figs 3-5).

2.5. 1.4. With respect to claim 11, MCCARTY discloses a means for carrying a load (16), means for lowering and raising the load (21)/(14) and means for assisting a user in stowing and unstowing the means for carrying the load (29).

2.6. With respect to claim 12, MCCARTY discloses an active opener arm (29) coupled to the parallelogram linkage.

2.7. With respect to claim 14, MCCARTY additionally discloses the arm slidably engaged with a portion of the parallelogram linkage (via sliding rod 29).

#### **IV. Response to Applicant's Arguments**

1. Applicant argues that claim 1, as amended, patentably distinguishes over MCCARTY. This argument is moot in light of the new grounds of rejection discussed above.

2. Applicant argues that claim 7, as originally presented, patentably distinguishes over MCCARTY because MCCARTY fails to disclose “the upper arm coupling being lower than the horizontal plane defined by the lower arm coupling.” This argument is not persuasive. MCCARTY shows upper arm (21) having a coupling (e.g., 20) being lower than a horizontal plane defined by a lower arm (14) coupling (e.g., 15 or 17) in Figs. 3 or 4.
3. Applicant further argues that claim 7, as originally presented, patentably distinguishes over MCCARTY because MCCARTY fails to disclose “an active opener arm rotably coupled to the lower arm coupling, the active opener arm slidably coupled to the upper arm coupling.” This argument is not persuasive. MCCARTY discloses an active opener arm rotably coupled to the lower arm coupling (at 30) and slidably coupled to the upper arm coupling (via 26/12). Applicant’s argument improperly assumes that the term “coupled to” excludes coupling via intermediate components. Examiner acknowledges that applicant uses the term “active opener arm” in the specification to refer to a structure different from the “active opener arm” of MCCARTY, however, without reciting within the claims any additional structural limitations, this term could reasonably be interpreted to have a wide variety of meanings. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.
4. Applicant argues that claim 11, as originally presented, patentably distinguishes over MCCARTY because MCCARTY fails to disclose a “means for assisting a user in stowing and unstowing the means for carrying a load.” This argument is not persuasive. Arm (27)/(29) is clearly a means for assisting a user in stowing and unstowing the means for carrying a load.

5. Applicant argues that claim 12, as originally presented, patentably distinguishes over MCCARTY because MCCARTY fails to disclose an “active opener arm being capable of receiving the platform from the user when the platform is being stowed.” This argument is not persuasive. Applicant's argument is based on the assertion that to meet this limitation the piston rod (29) must engage platform (16). The limitation “capable of receiving the platform” does not require the active opener arm to actually engage the platform. Even if this were the case, that scenario is shown in Figs. 4-5.

**V. Conclusion**

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG



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